



E599-1
UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mario Palmeros d/b/a
Palmeros Forwarding
4804 Warehouse Lane
Laredo, Texas 78041

Dear Mr. Palmeros:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Mario Palmeros d/b/a Palmeros Forwarding (Palmeros) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).

Facts constituting violations:

Charges 1-10

On ten separate occasions between on or about September 24, 1992 and on or about October 11, 1995, Palmeros prepared and used Shipper's Export Declarations, export control documents as defined in Section 770.2 of the former Regulations, for the purpose of effecting exports from the United States to Mexico, representing that hydrogen fluoride qualified for such export under general license G-DEST. Each of those exports is described

¹The alleged violations occurred in 1992, 1993, 1994 and 1995. The Regulations governing the violations at issue are found in the 1992, 1993, 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993, 1994, and 1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this charging letter.

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



more fully on the enclosed schedule, which is incorporated herein by this reference. In fact, none of the exports was authorized under general license G-DEST, but each required a validated license. BXA alleges that, by making false or misleading statements of material fact, directly or indirectly to a United States government agency in connection with the preparation or use of export control documents, Palmeros violated Section 787.5(a)(1) of the former Regulations in connection with each of the ten shipments, for a total of ten violations.

Accordingly, Palmeros is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Palmeros fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Palmeros is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer. Palmeros is also entitled to be represented by counsel, and to seek a settlement of the charges.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Palmeros' answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In

addition, a copy of Palmeros' answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosures

SCHEDULE OF VIOLATIONS**MARIO PALMEROS d/b/a PALMEROS FORWARDING**

CHARGES	DATE (ON OR ABOUT)	INVOICE AND ORDER	COMMODITY	DESTINATION
1	09/24/92	104-93161 203451	Hydrogen Fluoride	Mexico
2	02/19/93	104-26833 104-73749	Hydrogen Fluoride	Mexico
3	04/23/93	104-36739 104-74517	Hydrogen Fluoride	Mexico
4	07/08/93	104-54025 104-77006	Hydrogen Fluoride	Mexico
5	01/07/94	104-84787 104-81696	Hydrogen Fluoride	Mexico
6	01/07/94	104-84997 104-81672	Hydrogen Fluoride	Mexico
7	03/16/94	104-96589 104-83142	Hydrogen Fluoride	Mexico
8	11/26/94	104-49474 104-90477	Hydrogen Fluoride	Mexico
9	07/25/95	104-88863 104-96251	Hydrogen Fluoride	Mexico
10	10/11/95	104-14973 104-98284	Hydrogen Fluoride	Mexico

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
MARIO PALMEROS d/b/a)
PALMEROS FORWARDING)
4804 Warehouse Lane)
Laredo, Texas 78041,)
)
Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between Mario Palmeros d/b/a Palmeros Forwarding(Palmeros)and the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).²

¹The alleged violations occurred in 1992, 1993, 1994 and 1995. The Regulations governing the violations at issue are found in the 1992, 1993, 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993, 1994 and 1995)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this Settlement Agreement.

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

WHEREAS, BXA has notified Palmeros of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations by issuing a Charging Letter alleging that Palmeros violated Section 787.5(a) of the former Regulations in that, on ten occasions between on or about September 24, 1992 and on or about October 11, 1995, Palmeros made false or misleading statements of material fact, directly or indirectly, to a United States government agency in connection with the preparation and use of export control documents;

WHEREAS, Palmeros has reviewed the proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed if the allegations are found to be true; it fully understands the terms of this Settlement Agreement; it enters into this Settlement Agreement voluntarily, with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations expressed herein;

WHEREAS, Palmeros neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, Palmeros wishes to settle and dispose of all the matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Palmeros agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Palmeros and BXA agree as follows:

1. BXA has jurisdiction over Palmeros, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Palmeros agree that the following sanctions shall be imposed against Palmeros in complete settlement of all alleged violations of the Act and former Regulations arising out of the transactions set forth in the proposed Charging Letter:

- a. Palmeros shall be assessed a civil penalty in the amount of \$50,000, payment of which shall be suspended for a period of two years from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, Palmeros has committed no violation of the Act, or any regulation, order, or license issued thereunder.
- b. Palmeros and all of its successors or assigns, and all of its officers, representatives, agents, and employees when acting for or on behalf of Palmeros, may not, for a period of two years from the date of entry of an appropriate Order, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 - iii. benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- c. As authorized by Section 766.18(c) of the Regulations, this denial of export privileges shall be suspended for a period of two years from the date of entry of the appropriate Order, and shall thereafter be waived, provided that, during the period of suspension, Palmeros has committed no violation of the Act, or any regulation, order or license issued thereunder.

3. Palmeros agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement

Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any further administrative proceedings against Palmeros in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed Charging Letter.

5. Palmeros understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Palmeros agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18 of the Regulations, BXA and Palmeros agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and Order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

MARIO PALMEROS d/b/a
PALMEROS FORWARDING

Mark A. Munger

[Signature]

Acting Director
Office of Export Enforcement

Mario Palmeros

Date: 8/26/98

Date: 8/18/98

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
MARIO PALMEROS d/b/a)
PALMEROS FORWARDING)
4804 Warehouse Lane)
Laredo, Texas 78041,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Mario Palmeros d/b/a Palmeros Forwarding (Palmeros) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act), and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the Regulations),² based on allegations that

¹The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

²The alleged violations occurred in 1992, 1993, 1994 and 1995. The Regulations governing the violations at issue are found in the 1992, 1993, 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992, 1993, 1994 and 1995)). Those Regulations define the violations that BXA alleges occurred, and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in

Palmeros violated the provisions of the former Regulations in that, on ten occasions between on or about September 24, 1992 and on or about October 11, 1995, Palmeros made false or misleading statements of material fact, directly or indirectly, to a United States government agency in connection with the preparation and use of export control documents; and

BXA and Palmeros having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$50,000 is assessed against Palmeros, payment of which is hereby suspended for a period of two years from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Palmeros has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, that for a period of two years from the date of entry of this Order, Palmeros and all of its successors or assigns, and all of its officers, representatives, agents, and employees when acting for or on behalf of Palmeros shall be denied all privileges of participating, directly or indirectly, in any way in any transaction involving any commodity, software

this Order.

or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

THIRD, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other

support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FOURTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of

responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FIFTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

SIXTH, that, as authorized by Section 766.18(c) of the Regulations, this denial of export privileges is hereby suspended for a period of two years from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Palmeros has committed no violation of the Act, or any regulation, order or license issued thereunder.

SEVENTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 3rd day of September, 1998.